

PT 02-55

Tax Type: Property Tax

Issue: Charitable Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

**MOOSE
TITLE COMPANY,
APPLICANT**

v.

**ILLINOIS DEPARTMENT
OF REVENUE**

No.	01-PT-0025 (00-71-0003)
P.I.N.S:	19-15-04-200-001 19-15-04-100-010 16-08-33-300-006

RECOMMENDATION FOR DISPOSITION

APPEARANCES: Mr. Leonard J. Solfa, General Counsel for Moose Title Company, on behalf the Moose Title Company (the “applicant”); Mr. Gary Stutland, Special Assistant Attorney General, on behalf of the Illinois Department of Revenue (the “Department”).

SYNOPSIS: This proceeding raises the following issues: first, whether real estate identified by Ogle County Parcel Index Numbers 19-15-04-200-001, 19-15-04-100-010 and 16-08-33-300-006 (collectively referred to as the "subject property") was owned by an “institution of public charity,” as required by Section 15-65 of the Property Tax Code, 35 ILCS 200/1-1 *et seq.* during the 1999 assessment year; and, (b) whether the subject property was "exclusively used for charitable or beneficent purposes ...," as required by Section 15-65, during the 2000 assessment year. The underlying controversy arises as follows:

Applicant filed an Application for Property Tax Exemption with the Ogle County Board of Review (the “Board”) on June 30, 1999. The Board reviewed the application and recommended to the Department that the requested exemption be granted. The Department, however, rejected this recommendation via an initial determination, dated January 27, 2000, finding the subject property is not in ownership and not in exempt use.

Applicant filed a timely appeal to this determination and later presented evidence at a formal evidentiary hearing. Following submission of all evidence and a careful review of the record, I recommend that the Department’s initial determination in this matter be reversed.

FINDINGS OF FACT:

1. The Department's jurisdiction over this matter and its position herein are established by the admission of Dept Group Ex. No. 1.
2. The Department's position in this matter is that the subject property is not in exempt ownership and not in exempt use. Dept. Group Ex. No. 1, Doc. B.
3. Applicant is an Illinois not-for-profit corporation organized for purposes of holding title to properties operated by its affiliate, Moose International, Inc. Applicant Ex. Nos. 5, 6.
4. Real estate commonly known as “Camp Ross,”¹ that is owned by applicant and operated by Moose International, Inc., was exempted from real estate taxation

1. Prior to applicant’s acquisition of the subject property, the existing Camp Ross facilities were situated on real estate identified by Ogle County Parcel Index Numbers 15-04-100-007, 15-05-200-002 and 08-33-300-002. Applicant Ex. No. 8.

pursuant to the Department's determination in Docket No. 95-71-2. Applicant Ex. No. 8; Administrative Notice.

5. The Departmentally-issued property tax exemption for Camp Ross remained in full force and effect throughout the 2000 assessment year.² Administrative Notice.
6. Applicant's original submission to the Department did not contain any reference to the exemption certificate for Camp Ross. Nor did it contain any other information pertaining to this exemption. Dept. Group Ex. No. 1, Doc. B.
7. Camp Ross is a 100 acre facility located in Morris, Illinois that provides recreational facilities, sporting activities, nature trails, crafts and other recreational and therapeutic activities to children attending Mooseheart Child City and School. Applicant Ex. No. 1; Tr. pp. 13-14, 16-17.

2. In connection with this Finding, I take administrative notice that Section 15-25 of the Property Tax Code, 35 **ILCS** 200/15-25, authorizes the Department to return unlawfully exempted property to the tax rolls under certain circumstances. These circumstances, enumerated in Section 15-25, are as follows:

If the Department determines that any property has been unlawfully exempted from taxation, or is no longer entitled to exemption, the Department shall, before January 1 of any year, direct the chief county assessment officer to assess the property and return it to the assessment rolls for the next tax year. The Department shall give notice of its decision to the owner of the property by certified mail. The decision shall be subject to review and hearing under Section 8-35 [of the Property Tax Code, which, in substance, authorizes the Department to conduct administrative hearings on certain property tax matters], upon application of the owner filed within 10 days after the notice of decision is mailed.

35 **ILCS** 200/15-25.

My review of pertinent Departmental records discloses that the Department has not issued a Section 15-25 directive against the Camp Ross properties since the date on which the Office of Local Government services issued the exemption certificate therefor, December 7, 1995. Absent evidence that the Department ever issued such a directive, it appears that the Camp Ross properties have continued to enjoy exempt for all tax years, including 2000, subsequent to issuance of that certificate.

8. Applicant obtained ownership of the subject property, which is located immediately adjacent to the existing Camp Ross facility, via a warranty deed dated April 12, 1999. Applicant Ex. No. 3, 7.
9. Applicant obtained ownership of the subject property in order to expand the existing Camp Ross facility by: (a) increasing its camping facilities and lengthening its hiking trails; (b) creating mechanisms to control the existing water levels at Camp Ross; (c) improving its winter camping facilities; and, (d) increasing its storage facilities for Camp Ross. Applicant Ex. No. 7; Tr. pp. 49-50.
10. Applicant actually used the subject property for these and other expansion purposes throughout the 2000 assessment year. *Id.*

CONCLUSIONS OF LAW:

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to Constitutional authority, the General Assembly enacted the Property Tax Code 35 **ILCS** 200/1-1 *et seq.* The provisions of the Code that govern disposition of this case are found in Section 15-65(a), which states that:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) institutions of public charity

35 **ILCS** 200/15-65(a).

Like all statutes exempting property from taxation, Section 15-65(a) is to be strictly construed against exemption. People Ex Rel. Nordland v. the Association of the Winnebago Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). For this reason, all doubtful factual questions and other debatable matters must be resolved in favor of taxation. *Id.* Therefore, applicant, which bears the burden of proof in all exemption matters, must satisfy a standard of clear and convincing evidence in order to prove that the relevant statutory exemption applies. Immanuel Evangelical Lutheran Church of Springfield v. Department of Revenue, 267 Ill. App. 3d 678 (4th Dist. 1994).

Here, the relevant statutory exemption pertains to "institutions of public charity." The statutory requirements for this exemption are: (1) exempt ownership, meaning that the subject property is owned by a duly qualified "institution of public charity;" and, (2) exempt use, which means that the subject property is actually and primarily used for purposes that qualify as "charitable" within the meaning of Illinois law. 35 ILCS 200/15-65(a); Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156 (1968).

By definition, charitable institutions operate to benefit an indefinite number of people in a manner that persuades them to an educational or religious conviction that benefits their general welfare or otherwise reduce the burdens of government. Crerar v. Williams, 145 Ill. 625 (1893). They also: (1) have no capital stock or shareholders; (2) earn no profits or dividends, but rather, derive their funds mainly from public and private charity and hold such funds in trust for the objects and purposes expressed in their charters; (3) dispense charity to all who need and apply for it; (4) do not provide gain or profit in a private sense to any person connected with them; and, (5) do not appear to

place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits they dispense. Methodist Old People's Home v. Korzen, *supra*.

This applicant's initial submission to the Department was devoid of any evidence proving that the subject property was in exempt ownership and exempt use, as required by Section 15-65(a), during the 2000 assessment year. (Dept. Group Ex. No. 1, Doc. A; Tr. pp.34-36). Specifically, neither the Application for Property Tax Exemption (Dept. Group Ex. No. 1, Doc. A) nor any of the documents applicant tendered in connection therewith, contained any reference to the existing Camp Ross properties, which the Department had exempted from real estate taxation pursuant to its determination in Docket No. 95-71-2.

The certificate establishing this exemption (Applicant Ex. No. 8), which applicant did not produce until hearing, manifests the Department's recognition that applicant and its affiliate that actually operates Camp Ross, Moose International, qualify as "institutions of public charity" for property tax purposes.

The Department has yet to revoke this recognition pursuant to the procedures set forth in Section 15-25 of the Property Tax Code.³ Accordingly, the Department has not effectuated any change in applicant's "charitable" status at any time since the Office of Local Government Services issued the exemption certificate on December 7, 1995. Therefore, applicant retained that status all through the tax year currently in question, 2000. Under these very limited circumstances, and to the extent that the warranty deed (Applicant Ex. No. 3) proves that applicant actually owned the subject property

3. See, footnote 2, *infra*, at pp. 2-3.

throughout 2000, the Department's determination as to lack of exempt ownership should be reversed.

Most of the above discussion, except for the actual proof of title, applies with equal force to the exempt use issue raised herein. Nonetheless, the rules governing applicant's burden of proof require that it submit an appropriate level of evidence proving that the subject property was "actually and exclusively used for charitable or beneficent purposes" during 2000. 35 ILCS 200/15-65(a); Skil Corporation v. Korzen, 32 Ill.2d 249 (1965); Comprehensive Training and Development Corporation v. County of Jackson, 261 Ill. App.3d 37 (5th Dist. 1994).

Applicant's original submission to the Department contained no such evidence. ((Dept. Group Ex. No. 1, Doc. A). However, documentary and testimonial evidence adduced at hearing established that applicant used the subject property for purposes of expanding the programs offered at, and increasing the support facilities for, the existing Camp Ross facility during 2000. Applicant Ex. Nos. 7, 8; Tr. pp. 49-50.

That facility was tax exempt throughout the 2000 tax year for the reasons identified above. Thus, any uses of the subject property that enabled applicant to support its use of Camp Ross, or enabled applicant to increase the efficient administration thereof, qualify as "exclusively "charitable" within the meaning of Section 15-65. Memorial Child Care v. Department of Revenue, 238 Ill. App. 3d 985 (4th Dist. 1992). Therefore, the Department's determination with respect to lack of exempt use should be reversed.

WHEREFORE, for all the above-stated reasons, it is recommended that real estate identified by Ogle County Parcel Index Numbers 19-15-04-200-001, 19-15-04-100-010

and 16-08-33-300-006 be exempt from 2000 real estate taxes under Section 15-65(a) of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq.*

September 11, 2002
Date

Alan I. Marcus
Administrative Law Judge